Supreme Court of the United States.

No. 234.—October Term, 1905.

Josiah Millard, Appellant,
vs.
Ellis H. Roberts, Treasurer of the United States; Henry B. F. Macfarland, Henry L. West, and John Biddle, Commissioners of the District of Columbia, et al.

Appeal from the Court of Appeals of the District of Columbia.

[May 21, 1906.]

Mr. Justice McKenna delivered the opinion of the Court.

This is a bill in equity to enjoin Ellis H. Roberts, as Treasurer of the United States, from paying to any person any moneys of the District of Columbia, under certain acts of Congress,* (31 Stat. 767, 774; 32 Stat. 909,) and to enjoin the other defendants from carrying into effect said acts of Congress, and that said acts "be declared null and void for want of constitutional authority." Defendants interposed demurrers to the bill, which was sustained by the Supreme Court, and a decree entered dismissing the bill. The Court of Appeals affirmed the decree.

The principal allegations of the bill are that the railroad defendants are private corporations and all interested in the railway and terminal facilities of the District of Columbia; that the District of Columbia owns no stock in any of the companies nor is otherwise interested in any of them save as useful private enterprises, and yet it is required by said acts, "without any lawful consideration therefor," to pay the Baltimore and Potomac Railroad Company the sum of $750,000, and a like sum to the Baltimore and Ohio Railroad Company, "to be levied and assessed upon the taxable property and privileges in the said District other than the property of the

*An act entitled "An act to provide for eliminating certain grade crossings in the District of Columbia, to require and authorize the construction of new terminals for the Baltimore and Ohio Railroad Company in the city of Washington, and for other purposes," approved February 12, 1901; an act entitled "An act to provide for eliminating certain grade crossings of the Baltimore and Potomac Railroad Company in the city of Washington, D. C., and requiring said company to depress and elevate its tracks, and to enable it to relocate parts of its railroad therein, and for other purposes," approved February 12, 1901; an act entitled "An act to provide for a Union railroad station in the District of Columbia and for other purposes," approved February 28, 1903.

United States and the District of Columbia," and for the exclusive use of said corporations respectively, "which is a private use, and not a governmental use;" that the public moneys of the District of Columbia are raised chiefly by taxation on the lands therein, and that the complainant is obliged to pay and does pay direct taxes on land owned by him therein. And the bill also alleges that the acts of Congress are "acts which provide for raising revenue and are repugnant to article I, section 7, clause 1, of the Constitution of the United States, and are, therefore, null and void *ab initio*, and to their entire extent, because they and each and every one of them originated in the Senate and not in the House of Representatives." Certain volumes of the Congressional Record are referred to and made part of the bill.

In other allegations of the bill are expressed the limitations upon the power of the United States and the District of Columbia as to taxation; that the acts of Congress complained of are repugnant to the Constitution of the United States; that public funds are appropriated for private use, and that exorbitant taxes will be required to meet the legitimate expenses of the District of Columbia, and appellant will thereby be oppressed and deprived of his property without due process of law.

The first contention of appellant is that the acts of Congress are revenue measures, and therefore should have originated in the House of Representatives and not in the Senate, and to sustain the contention appellant submits an elaborate argument. In answer to the contention the case of *Twin City Bank* v. *Nebeker*, (167 U. S. 196,) need only be cited. It was observed there that it was a part of wisdom not to attempt to cover by a general statement what bills shall be said to be "bills for raising revenue" within the meaning of those words in the Constitution, but it was said, quoting Mr. Justice Story, "that the practical construction of the Constitution and the history of the origin of the constitutional provision in question proves that revenue bills are those that levy taxes in the strict sense of the word, and are not bills for other purposes, which may incidentally create revenue." (1 Story on Constitution, sec. 880.) And the act of Congress which was there passed on illustrates the meaning of the language used. The act involved was one providing a national currency, and imposed a tax upon the average amount of the notes of a national banking association in circulation. The provision was assailed for unconstitutionality because it originated in the Senate. The provision was sustained, this court saying:

"The tax was a means for effectually accomplishing the great object of giving to the people a currency that would rest, primarily, upon the honor of the United States and be available in every part of the country. There was no purpose, by the act or by any of its provisions, to raise revenue to be applied in meeting the expenses or obligations of the Government."

This language is applicable to the acts of Congress in the case at bar. Whatever taxes are imposed are but means to the purposes provided by the act.

The legality of those purposes is attacked in the other contentions of appellant. All of the contentions rest upon the correctness of the allegation that the moneys provided to be paid to the railroad companies are for the exclusive use of the companies, "which is a private use and not a governmental use."

The titles of the acts are the best brief summary of their purposes, and those purposes are obviously of public benefit. We do not think that it is necessary to enter into a discussion of the cases which establish this. The scheme of improvement provided by the acts required a removal of the railroads from their situations, large expenditures of money by the companies, and the surrender of substantial rights. These rights are recognized and their surrender expressed to be part of the consideration of the sums of money paid to the companies. Indeed there is an element of contract not only in the changes made but in the manner and upon the scale which they are required to be made. As remarked by Mr. Justice Morris, speaking for the Court of Appeals:

"The case is practically that of a contract between the United States and the District of Columbia on the one side and the railroad companies on the other, whereby the railroad companies agree to surrender certain rights, rights of property as well as other rights, and to construct a work of great magnitude, greater perhaps than their own needs require, but which Congress deems to be demanded for the best interest of the national capital and by the public at large; and for this surrender of right and this work of magnitude commensurate with the public demand, Congress agrees to pay a certain sum, partly out of the funds of the United States and partly out of the funds of the District of Columbia. It is a simple case of bargain and sale, like any other purchase."

We have assumed that appellant, as a taxpayer of the District of Columbia, can raise the questions we have considered, but we do not wish to be understood as so deciding.

Decree affirmed.

Mr. Justice HARLAN concurs in the result only.

True copy.

Test:

Clerk Supreme Court, U. S.